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ABSTRACT

This fact sheet describes provisions under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (ADA) that prohibit the discriminatory assignment of students with disabilities to segregated classes or facilities. In elementary and secondary schools, students with disabilities may be assigned to separate facilities or courses of special education only when this placement is necessary to provide equal educational opportunity to them. Specific elements that must be considered to determine what the educational needs of a student with a disability may be are discussed and include: (1) the use of tests and evaluation materials to assess specific areas of the students' needs; (2) placement decisions made by a team that includes people who know about the students and understand the meaning of the evaluation information; (3) placement of the student with nondisabled students to the maximum extent appropriate to the needs of the student with a disability; (4) periodic reevaluations; (5) the development of an Individualized Education Program; (6) the establishment of procedural safeguards to allow parents or guardians to challenge decisions; and (7) the inclusion of students in extracurricular activities and nonacademic services. (CR)

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Student Placement In Elementary and Secondary Schools and Section 504 and Title II of the Americans with Disabilities Act

U.S. Department of Education **Office for Civil Rights**

Section 504 Prohibits Discrimination on the Basis of Disability in Programs or Activities That Receive Federal Financial Assistance	TITLE II of the Americans with Disabilities Act Prohibits Discrimination on the Basis of Disability by State and Local Governments

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Student Placement

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) enforces Section 504 of the Rehabilitation Act of 1973 in programs and activities that receive assistance from ED. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (ADA), which is applicable to state and local governments.

Section 504 of the Rehabilitation Act of 1973 requires that:

> No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....

Section 504 and Title II of the ADA prohibit the discriminatory assignment of disabled students to segregated classes or facilities. These laws apply to elementary and secondary as well as postsecondary schools. In elementary and secondary schools, disabled students may be assigned to separate facilities or courses of special education only when this placement is necessary to provide equal educational opportunity to them. Any separate facilities, and the services provided in separate facilities must be comparable to other facilities and services.

To determine what the educational needs of a disabled student may be, schools must carry out preliminary evaluation and placement procedures. Specific elements that must be considered are discussed below.

Evaluation and Placement Procedures

Before placing disabled students in any educational program, schools must evaluate carefully each student's skills and special needs. Federal requirements provide standards for proper evaluations and placement procedures.

The tests and evaluation materials that are used must be chosen to assess specific areas of the student's needs. For example, a student may not be assigned to special education classes only on the basis of intelligence tests. When a student with impaired sensory, manual, or speaking skills is evaluated, the test results must accurately reflect what the test is supposed to measure and not the student's impaired skills except where those skills are what is being measured. Only trained people may administer the tests or evaluation materials.

Placement decisions must be made by a team that includes people who know about the student and understand the meaning of the evaluation information. The placement team must consider a variety of documented information for each student. The information must come from several sources, including the results of aptitude and achievement tests, teacher recommendations, reports on the student's physical condition, social or cultural background, and adaptive behavior.

The placement team must also be aware of different options for placing the student so that the student is placed appropriately. See section on Educational Setting, below.

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Educational Setting

The law requires that disabled students be educated along with nondisabled students to the maximum extent appropriate to the needs of the disabled students. This means that disabled students must be assigned to regular courses or classes if the students' needs can be met there. Also, decisions on academic placement must be based on an individual student's needs.

Disabled students may be placed in a separate class or facility only if they cannot be educated satisfactorily in the regular educational setting with the use of supplementary aids and services. For example, students who are blind may be assisted by readers or may use Braille equipment or specially-equipped computer equipment and remain in the regular classrooms. However, students with severe learning disabilities may be assigned to special education classes for part of the day.

Schools that do not offer the special educational programs or facilities that may be required by a disabled student may refer that student to another school or educational institution. However, the student's home district remains responsible for providing the student a free and appropriate education. Transportation must be provided at no greater cost than would be incurred if the student were placed in the home district.

Reevaluations

The performance and skill levels of disabled students frequently vary, and students, accordingly, must be allowed to change from assigned classes and programs. However, a school may not make a significant change in a disabled student's placement without a reevaluation. Schools must conduct periodic reevaluations of all disabled students.

Individualized Education Program

The Individuals with Disabilities Education Act (IDEA) requires schools to develop, according to specific standards, an individualized education program (IEP) for each eligible student with disabilities. An IEP that meets the requirements of the IDEA also fulfills the requirements of Section 504 and Title II of the ADA for an appropriate education for a disabled student.

Procedural Safeguards

Schools must establish procedures that allow the parents or guardians of students in elementary and secondary schools to challenge evaluations, placement procedures, and decisions. The law requires that parents or guardians be notified of any evaluation or placement action, and that they be allowed to examine their child's records.

If they disagree with the school's decisions, parents or guardians must be allowed to have an impartial hearing, with the opportunity to participate in the discussions. A review procedure must be made available to parents or guardians who disagree with the hearing decision.

Nonacademic Services and Activities

Students may not be excluded on the basis of disability from participating in extracurricular activities and nonacademic services. These may include counseling services, physical education and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, referrals to agencies that provide assistance to disabled persons, and student employment.

Discrimination in counseling practices is prohibited. Counselors must not advise qualified disabled students to make educational choices that lead to more restrictive career objectives than would be suggested for nondisabled students with similar interests and abilities.

For more information on student placement under Section 504 and Title II of the ADA, and on discriminatory practices in student assignment on the basis of disability, see the list of offices that contains the address and telephone number for the OCR office that serves your area, or call 1-(800)-421-3481.

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